

<sup>1</sup> Although INA's Application for Review By Workers Compensation Board requested review of two additional issues, in its brief and during oral argument to the Board it was clarified that the only issue was whether INA had coverage for this claim.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record and considering the arguments, the Appeals Board concludes the Award should be affirmed.

The Board agrees with and adopts as its own the findings and conclusions stated by the ALJ in her Award. On or about August 14, 1995, Ms. Lora Lee Ewbank, the insurance agent, represented to Mr. David O'Hara that respondent had workers compensation insurance coverage. She thereafter issued a Certificate of Insurance showing that coverage was afforded by the Insurance Company of North America. We agree with the ALJ that the evidence proves that the insurance agent had the apparent authority to bind INA when she issued the certificate of insurance and made the representations of coverage to Mr. David O'Hara in August of 1995. It is not reasonable to expect consumers to appreciate and draw distinctions between general agents and special agents. Under the facts of this case, the insurance carrier should be estopped from denying coverage. See Marley v. M. Bruenger & Co., Inc., 27 Kan. App. 2d \_\_\_\_, Syl. ¶ 3, (2000); Scott v. Wolf Creek Nuclear Operating Corp., 23 Kan. App. 2d 156, 928 P.2d 109 (1996). The Board affirms the finding of liability against O'Hara Painting Company, Inc. and INA, its insurance carrier.

**AWARD**

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Award entered by Administrative Law Judge Julie A. N. Sample dated July 21, 2000, should be, and is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of September 2000.

---

BOARD MEMBER

---

BOARD MEMBER

---

BOARD MEMBER

c: W. Ann Hansbrough, Kansas City, MO  
Gary R. Terrill, Overland Park, KS  
Michael R. Wallace, Mission, KS  
O'Hara Painting Co., Inc., c/o David O'Hara, 15435 W 150 Terr, Olathe, KS 66062  
Serv Pro, Inc., 320 W Woods Chapel Rd, Blue Springs, MO 64015  
Julie A. N. Sample, Administrative Law Judge

Philip S. Harness, Director